

# Environmental Justice and the Water Boards: Our Tool Box and Current Actions

**WQCC**

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# Overview

- \* State and Federal Definitions**
- \* State and Federal Guidance**
- \* Water Boards Progress**
- \* Issues and Challenges**
- \* Moving Forward**

# California Statutory Definition of EJ

**“Environmental Justice means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations, and policies.”**

Gov. Code §65040.12 (e), 1999

# California Statutory Definition of Disadvantaged Community

**A DAC is a community with an annual median household income (MHI) that is less than 80% of the Statewide MHI.**

**A severely DAC is a community in which the MHI is less than 60% of the statewide MHI.**

Health & Safety Code, Sections 11625 and 1167.20 and  
Public Resources Code Section 7500(g).

# State Guidance

- \* **Cal/EPA Intra-Agency EJ Strategy**
- \* **Cal/EPA Policy for Working with California Indian Tribes**

# Federal Definition

**US EPA considers “environmental justice communities” as “a minority or low-income community that bears disproportionately high and adverse human health or environmental effects.”**

Federal Executive Order 12898, 1994

# Federal Guidance

## Title VI of the US Civil Rights Act

**Prohibits discrimination in programs and activities receiving federal financial assistance.**

**"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."**

Title VI, 42 U.S.C. § 2000d et seq

# Programs Receiving Federal Grant Funding

Grant Funded	Total Program Funding	Federal Funding	Percent Federal Funding
TMDL	6,488,977	1,714,727	26%
Basin	3,332,406	648,973	19%
319 Non-Point Source	1,972,968	1,972,968	100%
Underground Storage Tanks	23,787,858	2,039,768	9%
Water Quality Monitoring	11,061,044	5,179,119	47%
Department of Energy Oversight	300,000	300,000	100%
Beach WQ Monitoring	1,506,000	506,000	34%
Water Quality Management	1,067,000	1,067,000	100%
<b>Reimbursement Funded</b>			
DOD/Navy Cost Recovery	4,376,417	4,673,417	107%

# **Water Board Progress:**

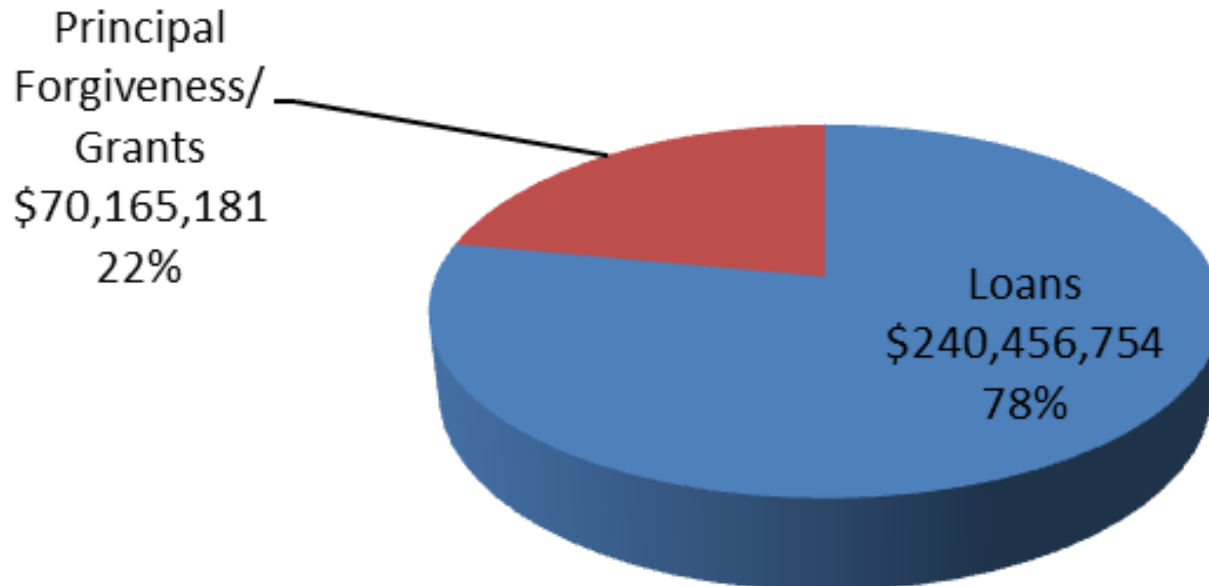
## **DFA's Small Community Wastewater Grant Program**

- \* Defines a small community population as less than or equal to 20,000 persons with a financial hardship, based on Public Resources Code, Section 30925(a).**
- \* Division of Financial Assistance (DFA) maintains list of potentially eligible small disadvantaged community (SDAC) wastewater projects.**

# Water Board Progress:

## DFA's Small Community Wastewater Grant Program

### Fiscal Year 2011-2012 CWSRF Assistance to 18 Disadvantaged Communities\*\*\*



# Water Board Progress:

- \* **Region 1 – Integration of 5 Tribal Entities in Klamath Water Quality Work**
- \* **Region 4 - Training on the Value of Public Participation**
- \* **Region 4 - Los Angeles EJ Network Meeting with DTSC, State and Regional Board members and other partners to Discuss GW Protection.**
- \* **Region 5 – Part of the Kern Environmental Enforcement Network**
- \* **Region 7 - Part of Eastern Coachella Valley EJ Enforcement Task Force & Imperial Valley EJ Task Force**

# Water Board Progress:

## State Board - Nitrates

- Workshop on Treatment Options
- Governor's Task Force
- UCD Report
- Small Community W/W Strategy
- Technical Panel

# Partial List of EJ Communities & Tribes the Water Boards Have Worked With

- \* Yurok Tribe (Del Norte County) (R1)
- \* McMinn Superfund Site, Sonoma County (R1)
- \* San Jerardo Community, Monterey County (R3)
- \* Los Osos , San Luis Obispo County (R3)
- \* Kast Tank Farm & Ujima Village, Los Angeles County (R4)
- \* Airport District Community, Shackleford & Riverdale Communities, Stanislaus County (R5)
- \* Kettleman City Community, Kings County (R5)
- \* Weedpatch & Sonshine Mobile Home Park, Kern County (R5)
- \* St. Anthony Trailer Park, Riverside County (R5)
- \* Hinkley Community, San Bernardino County (R6)
- \* Eastern Coachella Valley (R7)
- \* Rialto & South Archibald , San Bernardino County (R8)
- \* Barrio Logan & Imperial Beach (R9)

# Opportunities for Tribal Engagement

- \* Cal EPA Tribal Advisory Committee
- \* California Water Plan Updates
- \* California Water Plan, Tribal Summit
- \* US EPA Regional Tribal Operations Committee (RTOC)
- \* UC Davis Tribal Fish Consumption Study
- \* Consultation
- \* OPP Tribal Email Lists: Chairs and Environmental Directors
- \* Annual Native American Day at Capitol

# EJ/DAC Challenges

## Public Participation

- \* Ability to attend meetings
- \* Ability to access information & participate in their primary language
- \* Access to a Regional Board EJ contact person
- \* Lack of representation on decision making bodies

## Capacity Building

- \* Need technical assistance with preparation of grant proposals
- \* Need technical assistance to learn how to maintain community water systems through occupational training . E.g., San Jerardo got grant but did not know what to do next.
- \* DFA had a technical assistance grant contract with California Rural Water Association. We're in the process of renewing it.

# EJ/DAC Challenges (cont'd)

## **Administrative**

- \* DAC/EJ definitions can be limiting
- \* Overly technical language

## **Big Funding Issues**

- \* Isolated locations; often with less population base
- \* Access to safe drinking water
- \* Cumulative impacts
- \* Delayed reimbursement process

## **Technical, Managerial, Funding**

- \* Training, O & M
- \* Lack of effective outreach

# Controversial Sites

Region 6	Lahontan
#1 Site Name	Hinkley
Name of Nearest City, Name of County, Brief Site Description & History	<p>Barstow, San Bernardino County.</p> <p>Hinkley is an unincorporated community in the Mojave Desert, 14 miles northwest of Barstow, 59 miles east of Mojave, and 47 miles north of Victorville. It sits just north of California Highway 58. Longstanding groundwater contamination is major problem. Contamination originated from compressors used during 1950s and 1960s for PG&amp;E's massive natural gas transmission pipelines. Community was subject of 2000 "Erin Brockovich" film. Plume boundary not yet contained. Groundwater has Chromium 6 and other constituents. Site also subject of numerous complaints via the CalEPA online Complaints System. Hinkley- specific ethnicity data not available. County- wide, population is 48.08% Hispanic. Based on tax returns, average income for Hinkley in 2010 was \$10,866.</p>
Pertinent ID #s, Where Applicable	N/A
Names of Other Government Agencies Involved	DTSC, USGS, CDPH
Regional Board Investigations & Actions to Date	Cleanup & Abatement Orders, Whole House Water Replacement Order More at: <a href="http://www.hinkleygroundwater.com/">http://www.hinkleygroundwater.com/</a>
Community Involvement with Regional Board to Date. What's Worked, been Effective? What's not Worked so well, not been Effective?	<p>+ R6 staff, led by Lauri Kemper, has striven to further community's understanding of some of the technical issues, e.g., public panel discussion on water supply, development of fact sheets, securing USGS assistance on manganese and other issues.</p> <p>+ OPP has assisted R6 with interpreters at community meetings, translation of documents, restructuring Community Advisory Committee to build trust and understanding.</p> <p>- PG&amp;E led community outreach not always well received.</p>

# EJ Inventory

Goal of Program	Description of Existing EJ Efforts	Statutory or Regulatory Requirements re EJ	What Steps Program Should Take to Incorporate EJ Principles?	Assessment of any obvious impacts Program has on EJ Communities	Description of How Any Federal Money is Used in the Program
State Water Board					
Office of Enforcement					
To ensure that violations of orders and permits result in firm, fair and consistent enforcement through direct actions. It also develops policies and guidance on enforcement issues.	The Water Quality Enforcement Policy (effective May 2010), describes our strategy for EJ. In addition, when prioritizing enforcement actions, we take EJ considerations into account.	The Water Quality Enforcement Policy is a regulation that has been adopted by the State Board and approved by OAL. In addition, the Water Boards pursue enforcement that is consistent with the goals identified in Cal-EPA's Intra-Agency EJ Strategy.	The steps are described in the Water Quality Enforcement Policy.	Enforcement actions, such as Clean-up and Abatement Orders, and replacement water orders have a direct impact on EJ communities.	N/A

# Moving Forward: Regulatory Programs That Could Consider EJ Principles

- \* Timber Harvest operations
- \* Land disposal program
- \* Groundwater Quality Monitoring
- \* Underground Storage Tank Program
- \* Operator Certification
- \* DOD/Dept of Energy
- \* Other programs receiving Fed grant \$
- \* Enforcement
- \* NPDES permitting
- \* NPS Pollution
- \* Site Cleanup
- \* TMDLs
- \* WQ certifications
- \* Basin Planning
- \* Irrigated Lands Regulatory Program

# Moving Forward: Statewide Water Quality Control Plans

- \* **Water Quality Control Plan for Enclosed Bays and Estuaries (Part 1, Sediment Quality)**
- \* **California Ocean Plan**
- \* **California Thermal Plan**
- \* **San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan**
- \* **Statewide Permits**

# **Moving Forward: Policies for Water Quality Control**

- \* Anti-Degradation Policy**
- \* Recycled Water Policy**
- \* Water Quality Enforcement Policy**
- \* Sources of Drinking Water Policy**
- \* Supplemental Environmental Project Policy**
- \* Use of Coastal and Estuarine Waters for Power Plant Cooling Policy**

# EJ Tools and Resources

- \* Inventory of EJ actions
- \* Cal EnviroScreen
- \* Facilitation Pool
- \* In-house Translation and Contract
- \* Controversial Sites List
- \* OPP: Coordination of Major Public Policy Discussion, e.g., Nitrates
- \* CalEPA Tribal Policy, EJ Strategy
- \* Training for staff: Partnering with USEPA and Others
- \* Strengthen Coordination with EJ and Tribal Communities
- \* EJ Tours
- \* Public Participation Manual
- \* Citizen's Guide to Working with the California Water Boards
- \* Focused Stakeholder Outreach
- \* AB 685 Human Right to Water

# Next Steps for Water Boards to Consider

- \* Update the Water Board EJ Inventory as Needed**
- \* Provide Education & Training for Water Board staff**
- \* Strengthen Overall Coordination with EJ & Tribal Communities : Continue to Build Relationships**
- \* Continue Cross-Media Coordination and Accountability in Partnership with CalEPA Sister BDOs and Other Agencies**

# Next Steps for Water Boards to Consider (cont'd)

- \* **Consider Expanding our EJ and Public Participation Staffing**
- \* **Consider Preparing an EJ Work or Implementation Plan**
- \* **Continue the Dialogue to Incorporate EJ Principles into Water Board Plans and Policies**
- \* **Revisit EJ at Future MCC & WQCC Meetings**
- \* **Others??**